

Testimony on House Bill 4714, Accept Obamacare Medicaid Expansion, June 11, 2013

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Back in the districts many of you have told constituents you think Obamacare is a bad law that should be repealed.

Yet here you are on the threshold of a vote that will further entrench the law. Among the rationalizations is that resistance is futile because Obamacare is a done-deal. That's not correct, the law is highly vulnerable, but will become less so Michigan approves the Medicaid expansion.

Here's what that means, given that Obamacare can't be repealed under the current administration: When it fully kicks-in on Jan. 1, the mayhem this law inflicts on families, employers and the nation's health care system may be so obnoxious that Congress – including the Reid Senate – will be forced to open the law for major amendments that reduce the damage.

This is why those opposing your collaborationism are not “bitter enders.” A day may come when active resistance becomes counter-productive, but our core beliefs demand we be slow and grudging in accommodating that day's arrival. That applies to those of you who claim to share those beliefs

Let me offer some evidence for why this amendment scenario is more than just plausible, and perhaps highly likely:

Political: Last week a new Wall Street Journal/NBC News survey found 49 percent think the law is a “bad idea,” with 43 percent “strongly” holding that view. The number who think it's a good idea was 37 percent. That 12-point gap is the largest since March 2010 when the law was passed.

In March, Kaiser found that just 18 percent of Republicans, 31 percent of independents, and 58 percent of Democrats have a favorable opinion of Obamacare. The intensity on the unfavorable side is twice as strong as the favorable.

Even some unions are bailing, including the 1.3 million-member United Food and Commercial Workers. The Union of Roofers, Waterproofers and Allied Workers released a statement calling “for repeal or complete reform.” The Teamsters and a prominent hotel workers' union are also pushing for changes.

Legal: On the legal front the NFIB lawsuit decided last June was only the beginning. HHS's heavy-handedness on the birth control issue has generated several suits. Oklahoma and a group of small businesses represented by AEI are challenging the authority of federal exchanges (including the one here) to distribute the law's insurance subsidies. If they prevail then the employer mandate can't be enforced in those states, and many people will also escape the IRS's individual mandate penalties.

The law's supporters pretend this suit is based on a mere “scrivener's error,” but the congressional record makes it clear it's sponsors included this provision very deliberately, as an incentive for states to create their own exchanges. The Supreme Court has already rewritten this law once to save its authors from their own shoddy job – should we automatically expect it to a second time?

Complexity: Perhaps the greatest vulnerability is the law's absurd level of complexity. The entities styled as exchanges are in fact a giant federal computer portal intended to combine data from the IRS, the social security administration, the Department of Homeland Security, and other agencies.

This is probably the largest and most complex information technology project ever attempted, and as we all know, large government IT projects always come in ahead of schedule and under budget. Everyone always laughs when I say that.

Yet barely seven months from today millions of people become dependent on these exchanges. Already there is talk of “triage.” Former CBO director Douglas Holtz Eakin characterized the current approach as “Let's get to the things that we can make work, and declare victory.”

Here's a middle-ground guesstimate of what's likely to happen: These exchanges will open, but very little gee-whiz technology. That means applying for insurance and subsidies will involve a great deal of over-the-phone data-entry by hand. Despite recent reports that application forms have been simplified, they are still way beyond the ability of most people.

So imagine thousands of poorly trained, largely unaccountable “navigators” running around this state assembling the most sensitive information on hundreds of thousands of Michigan citizens. Then multiply that by 50 states.

What could possibly go wrong?

Yesterday Capitol Confidential published a laundry list of all the ways the law is vulnerable, with evidence for each. I encourage you to spend a few minutes scanning through those links.
<http://www.michigancapitolconfidential.com/18723>

I'm a former staffer here, and understand how sometimes the fevered psychology of the caucus rooms can stampede legislators who should know better with a false “we have to get this done right now!” urgency.

Frankly, it's painful to watch, because I know if you move this bill before long many of you will experience “What was I thinking?” regret. Think about how this will look next January, when even the MSM won't be able to prevent headlines that expose this bad law's harmful impacts on real people.

So why in the world would you want to be remembered as the politicians who helped prop up this law at the very moment when it was becoming highly vulnerable to a serious course correction?

Thank you.